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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,659	04/22/2004	Ray J. Hutchinson	2400-807	6821

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EXAMINER

LEE, KEVIN L

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/829,659	Applicant(s) HUTCHINSON ET AL.	
	Examiner KEVIN L. LEE	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-16, 19-23, 26-28 and 43-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22, 23, 26-28 and 51-65 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 7, 19-21, 43, 46, 47 and 50 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 8-16, 44, 45, 48 and 49 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/19/05 & 3/13/06</u> . | 6) <input type="checkbox"/> Other: ____. |

Response to Amendment

The amendment filed March 15, 2006 has been thoroughly reviewed and considered by the examiner. The indicated allowability of claims 1, 2, 6, 7, 19-21, 43, 46, 47, and 50 is withdrawn in view of the newly discovered reference(s) to Kuziw (U.S. Patent No. 4,997,012) and Struthers et al (U.S. Patent No. 6,575,206). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 43-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 19, lines 11 and 12, the recitation that the control system sends a signal to a control system is vague and indefinite. Moreover, in line 12 of claim 19, the recitation of "said control system" is indefinite in that it is not known whether the recitation refers to the first or the second control system recited in the preceding line.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6, 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlaskamp (U.S. Patent No. 5,429,274) in view of Kuziw (U.S. Patent No. 4,997, 012). The patent to Vlaskamp discloses a fuel dispenser (10) including a leak collection chamber (22) collecting leaked fuel, col. 1, lines 57-65. The collector system of Vlaskamp lacks having a scale under the leak collection chamber to register the weight of the weight collection chamber. The dispenser of Kuziw teaches the above exception in providing a scale (29) under a leak collection chamber (28), the dispenser including a controller (21) which is used to measure and record the weight of the collection chamber, the weight then being used in comparison with the weight of the supplied fluid to determine a problem with the fluid delivery, col. 3, lines 46-60. In view of the teaching of Kuziw, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collector system of Vlaskamp to include a scale under the leak collection chamber to measure the weight of the leaked fuel and to use the weight of the leak collection chamber to generate an alarm through a controller in the event that the weight of the leak collection chamber exceeds a threshold weight.

Claims 19, 20, 43, 46, 47 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlaskamp in view of Struthers et al (U.S. Patent No. 6,575,206). The patent to Vlaskamp discloses a fuel dispenser (10) including a leak collection chamber (22) collecting leaked fuel, col. 1, lines 57-65. The collector system of Vlaskamp lacks having an alarm generated when the fluid level in the collection

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chamber exceeds a threshold value. The patent to Struthers et al teaches the above exception in providing an alarm as a part of a leak collection chamber, the alarm being generated when the fluid level in the chamber exceeds a threshold value. The fuel pump may also be shut off if the leaked fuel level exceeds a threshold value, col. 2, lines 12-29. In view of the teaching of Struthers et al, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the fuel dispenser of Vlaskamp to include generating an alarm in the leaked fluid in the collection chamber exceeds a threshold value so that an operator will be alerted to the potential overflow of the leak collection chamber or to shut off the pump to the pump so that fuel leakage will be prevented.

Allowable Subject Matter

Claims 3, 4, 8-16, 44, 45, 48 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 22, 23, 26-28 and 51-65 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Clymer et al (U.S. Patent No. 5,851,108) is cited for the additional showing of a fuel dispenser having a collection chamber and a controller associated with the collection chamber to measure the fuel level in the collection

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chamber and generate an alarm or shut off the pump if the fuel level exceeds a threshold value. The dispenser includes a shear valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN L. LEE whose telephone number is (571) 272-4915. The examiner can normally be reached on MONDAY-THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC KEASEL can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

APRIL 3, 2006


Kevin Lee
Primary Examiner